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I. LAND AND PEOPLE

1. Cuba is a developing country where the economic growth objectives have been integrated with the objectives in regard to job creation, income generation and redistribution, and meeting the needs of all the people. Changes in the behaviour of the population reflect those in the country's social and economic life and not any explicit demographic policy.

2. Since 1990 the country's economic development has been going through a difficult and complex phase as a result of the eclipse of the European Socialist camp, the disintegration of the Soviet Union and the reactivation of the United States blockade under the Torricelli and Helms-Burton Acts, adopted by that country in 1992 and 1996 respectively. Consequently, between 1989 and 1993 there was a fall of the order of 35 per cent in the gross domestic product (GDP). Nevertheless, the strategy devised has produced the beginnings of a recovery, as shown first by the halting of the recession in 1994, when GDP rose by a modest 0.7 per cent, and then by the growth rates of 2.5 per cent and 7.8 per cent respectively in GDP attained in 1995 and 1996. Despite this situation it has been possible to maintain and even improve upon the progress achieved in key sectors such as health, education and social security.

3. Although GDP, at constant 1981 prices, declined from 19,585.8 thousand million pesos (TMP) in 1989 to 14,218.0 in 1996, an upward trend has been observed over the past three years, beginning in 1994 when GDP reached 12,868.3 TMP, compared with 12,776.7 in 1993. This trend was paralleled by that in per capita GDP, both in the period between 1989 and 1996, when it declined from 1,861 pesos to 1,290 pesos, and between 1993 and 1996, when it increased from 1,172 pesos in 1993 to 1,290 pesos in 1996.

4. In 1994 the foreign debt in freely convertible currency was reckoned at 9,082.8 TMP and the unemployment rate, according to the National Employment Survey conducted by the National Statistical Office, at 3.9 per cent. The employment situation has shown a tendency to improve with the introduction and spread of self-employment as from 1994, and as a result of the recovery process that is taking place in most branches.

5. The literacy rate, calculated from the results of the 1991 census of the population aged 10 years and over, was 96.2 per cent in 1996.

6. The country's population at the end of 1995 was 10,998,532, comprising 5,522,120 males (50.2 per cent of the total) and 5,476,412 females (49.8 per cent).

7. In Cuba, figures for life expectancy at birth and infant mortality are similar to those in the developed countries. Life expectancy at birth in 1996 was 74.7 years - 72.9 years for men and 76.6 years for women. A downward trend in the infant mortality rate places Cuba among the world's 25 foremost countries with respect to that indicator. Whereas in 1989 the rate was 11.1 per 1,000 live births and in 1995 9.4 per 1,000 live births, with 1,384 infant deaths - 808 males and 576 females - occurring, by 1996 it had fallen to 7.9 per 1,000 live births.

8. The maternal mortality rate also showed a reduction between 1989 and 1996, falling from 2.9 per 10,000 live births to 2.4 in the latter year.

9. Fertility is of a very low order, well below replacement level, and the overall rate shows a declining trend. In 1989 it stood at 1.83 children per woman and by 1996 it had fallen to 1.44.

10. Cuba at present displays a trend towards ageing of the population, reflecting the low population growth, fertility and death rates. The population under 15 years old, for both sexes, declined from 23 per cent to 22.2 per cent between 1989 and 1996 (the figure for males falling from 11.8 per cent to 11.4 per cent and for females from 11.2 per cent to 10.8 per cent), while the population over 65 years old, for both sexes, grew from 8.7 per cent to 9.4 per cent of the total population over the same period (the figure for men rose from 4.3 per cent to 4.5 per cent and of women from 4.4 per cent to 4.9 per cent).

11. Since 1959, and in response to the recommendations of the world population conferences, the topic of internal migration, spatial distribution and urbanization has taken on particular importance in the light of its socio-demographic and economic implications; thus in the framing of strategies attention has been given to rural development and the development of medium-sized cities, with the primary aim of containing the population drain from such areas. Nonetheless, Cuba shows a continued trend towards urbanization, the level of which is high and by 1996 had reached 74.8 per cent. The percentage distribution of population by urban or rural area and by sex in 1995 was as follows:

Urban areas			Rural areas		
Total	Males	Females	Total	Males	Females
74.6%	36.7%	37.9%	25.4%	13.5%	11.9%

12. Population dynamics has governed population growth in such a way that, virtually since 1977, rates have been below 11 per 1,000 inhabitants, which is considered a low figure, but since 1991 have fallen still further to levels below 5 per 1,000. Such was the general picture when, in January 1996, the country's population reached 11 million.

13. Data on the percentage of women heads of households obtained in the last population census conducted in the country (1981) indicated that 28.2 per cent of household heads in nuclear families were women, which was double the percentage recorded in the 1953 census and 10 points higher than the 1970 figure. More recent data (National Survey of Internal Migration) show that for 1995 the figure rose to above 38.0 per cent. Independently of changes in civil status, the rise in the number of women heads of household must also be viewed against the background of progress in the integration of women into socio-economic, political and cultural activities, and consequently of a strengthening in their decision-making capability in social and family life.

14. Reflecting these realities, some selective studies carried out on the trends of specific socio-demographic variables show that growth rates in the number of women in charge of their nuclear families are significantly higher than the rate of growth of the overall female population.

15. Thus, for instance, over the past decade, while the total female population of reproductive age (15-49 years) increased by about 1 per cent, the number of heads of households in that age bracket increased by 4.9 per cent. Note that it is not only separation or divorce which appear to be the basic cause of this phenomenon, but also the creation of new households and recognition by the family of the woman as the person to be running the home.

16. In considering the distribution of the population by skin colour, we do not refer to ethnic categories or groups, which would be the subject of a study in the sphere of anthropology, going much deeper and involving other indicators. The 1981 census data give the following figures for population distribution: 66.0 per cent white, 21.9 per cent mixed race, 12.0 per cent black, and 0.1 per cent Asian.

17. The most significant feature of the trend in population distribution by skin colour is not the percentages, which in comparison with the 1950 census show a tendency towards growth in the mixed-race population, but the educational and social advances achieved by the mixed race and black population in a proportion almost identical to the trend in the racial distribution of the population. This fact constitutes further statistical evidence of the elimination of racial discrimination and the equalization of the opportunities available in the various occupations to all persons irrespective of their skin colour.

II. GENERAL POLITICAL STRUCTURE

18. The island now called Cuba was discovered by Christopher Columbus on 27 October 1492, but it was not until the start of the sixteenth century that its colonization by the Kingdom of Spain began. The second decade of that century saw the foundation of the first seven towns: Baracoa, Santiago de Cuba, Bayamo, Puerto Príncipe, Sancti Spíritus, Trinidad and San Cristóbal de la Habana.

19. The aboriginal population of the island, Taínos and Siboneyes, resisted colonization but were subdued and reduced to the status of slave labourers. Their new, inhuman living conditions resulted in their virtual extermination, which gave rise to the mass introduction, during the seventeenth and eighteenth centuries, of Africans to be used as a slave labour force.

20. Ethnically the Cuban population consists essentially of descendants of Spaniards and Africans and, to a lesser degree, descendants of Asians who came to the country at various times.

21. In the second half of the nineteenth century the process of formation of Cuban nationhood, by then far advanced, and the sharpening of tensions between colony and metropolis, created the basic preconditions for the onset of struggles for independence. The first war for the independence of Cuba was

waged from 1868 to 1878 without attaining its objectives. In 1895 the struggle was renewed, leading in 1898 to the end of Spanish colonial domination, but the intervention of the United States in the final phase of the conflict, when the Spanish Government forces were virtually on the run, changed Cuba's destiny by making it into a United States neo-colony.

22. On 20 May 1902 there began for Cuba the period of the "puppet republic", under a constitution containing as an appendix the Platt Amendment, whereby the United States arrogated to itself the right to intervene in the island. That country also imposed on Cuba an oppressive Trade Reciprocity Treaty and took possession of part of the national territory to establish naval bases and coaling stations. One of these, the Guantánamo naval base, still illegally occupies part of Cuba's territory.

23. The first half of this century saw a succession of corrupt and "appeasing" Governments. The Cuban people, who succeeded, at the cost of losing hundreds of their finest children, in overturning the dictatorship of Machado in 1933, were still to experience the gloomiest and darkest episode in their history under the genocidal and tyrannical Government of Fulgencio Batista.

24. The year 1959 was marked by the triumph of the Revolutionary People's Movement led by Fidel Castro Ruiz. The advent of the Revolution spelt the end of four and a half centuries of colonial domination: the people became masters of their destiny, initiating radical changes in the economic, political and social spheres.

25. During the period that has elapsed since that time the realities of Cuban life have changed radically for the better, especially in the spheres of health, education, social security, sports and culture. Offsetting those gains, the country has found itself compelled to maintain a continuing policy of defensive vigilance in response to the aggressive and hostile stance of the United States. The Bay of Pigs invasion, terrorist attacks, bacteriological, radio and televisual warfare, and a ruthless economic, commercial and financial blockade, currently being reactivated, have been the most visible instruments of a policy aimed at subverting Cuban institutional order.

26. The Cuban State, as at present organized and constituted, derives its legal authority from the Constitution of 1976, amended in July 1992 in line with the economic and social changes that have taken place in the country. In article 1 it states that "Cuba is a socialist workers' State, independent and sovereign, organized with and for the benefit of all as a unitary and democratic republic, for the enjoyment of political freedom, social justice, individual and collective well-being and human solidarity".

27. In the Republic of Cuba sovereignty is vested in the people, from whom stems all the authority of the State. This authority is exercised directly or through the Assemblies of People's Power at their various levels and through the other State organs which derive from them, in the manner and according to the legal norms established by the Constitution and the laws (art. 3, first para.).

28. The Cuban State is made up of the higher organs and local organs of people's power, which organize and implement their activities on the basis of socialist democracy. The higher organs of people's power consist of the National Assembly of People's Power and the Council of State, and the local organs of the Provincial Assemblies and Municipal Assemblies of People's Power. The Council of Ministers, which constitutes the Government of the country, is a non-representative body included among the higher organs of People's Power.

29. The National Assembly of People's Power is the supreme organ of State authority, representing and expressing the sovereign will of all the people. It is composed of deputies elected by free, secret and direct vote of the electors for five-year terms.

30. The deputies normally discharge their functions without giving up their occupational activities. This simultaneity is achieved by concentrating the work of the Assembly into two regular sessions per year together with extraordinary sessions of limited duration, so that the deputies can discharge the responsibilities of their elective office as well as their occupational duties.

31. The continuity of the State's legislative activity is ensured by the existence of the Council of State, which represents and acts for the National Assembly of People's Powers between sessions, except in the exercise of powers expressly reserved to the Assembly by the Constitution of the Republic. The Council of State is elected by the National Assembly and is composed of a President, a first Vice-President, five Vice-Presidents, a Secretary and 23 other members.

32. In addition to representing and taking the place of the National Assembly between sessions, it implements the Assembly's decisions and carries out the other functions assigned to it by the Constitution. It is collegiate in nature and acts as the supreme representative of the State at the national and international levels. The President of the Council of State is also the Head of Government and the powers vested in him under the Constitution include those of representing the State and Government and directing their general policy.

33. The Council of Ministers is the highest-ranking executive and administrative organ and constitutes the Government of the Republic. It is composed of the Head of State and Government, as its President, a first Vice-President, the Vice-Presidents, the Ministers and the Secretary. The Executive Committee of the Council of Ministers, which can decide on questions referred to the Council of Ministers during the intervening periods between its sessions, is composed of the President, the first Vice-President, the Vice-Presidents and such other members of the Council of Ministers as are determined by the President.

34. The assignment of responsibilities and other matters relating to the organization and functioning of the National Assembly of People's Power, the

Council of State and the Council of Ministers are governed by what is laid down in the Constitution of the Republic, in the rules of the National Assembly of People's Power, in Decree-Law No. 67 of the State, and such other regulatory and general provisions as supplement them.

35. The Provincial Assemblies and Municipal Assemblies of People's Power are the local organs of State power and are accordingly vested with the highest authority for the exercise of their State functions within their respective domains. Administrative Councils set up by these Assemblies constitute the local administrations that direct the economic agents producing goods and services at the local echelon, with a view to meeting the economic, health and environmental protection needs and other requirements in the welfare, educational, cultural, sporting and recreational spheres of the community within their territory.

36. The People's Councils support the Assemblies through the initiatives and the involvement of the population. They are set up in cities, towns, districts, villages and rural areas from among the delegates elected in the constituency, who choose one of their number as President. They may belong to the Councils representing the mass organizations and major institutions within their area.

37. The organization and functioning of the local organs of people's power are governed by their respective rules and other supplementary provisions.

38. The function of dispensing justice is exercised, in the name of the people, by the People's Supreme Court and the other courts established by law. In addition, the legislation lays down the principal objectives of judicial activity and regulates the organization of the courts, the extent of their jurisdiction and competence, their powers and the manner in which they are exercised. It also determines the requirements that judges must meet, the manner of their election, and the grounds and procedures for their removal or dismissal from office.

39. The courts constitute a system of State organs structured to be functionally independent from any other organ and subordinate in rank to the National Assembly of People's Power and the Council of State.

40. The People's Supreme Court is the highest judicial authority and its decisions in that sphere are final. Through its Governing Council it can propose laws and issue regulations, take decisions, and enact norms compliance with which is compulsory for all the courts. Guided by the latters' experience, it issues instructions of a binding nature in order to establish uniform judicial practice in the interpretation of the law.

41. The judges, in exercising their function of dispensing justice, are independent and owe obedience only to the law.

42. The Office of the Attorney-General of the Republic is the State organ whose fundamental objectives make it responsible for: controlling and safeguarding legality through surveillance to ensure strict compliance with

the Constitution, the legislation and other legal provisions on the part of State agencies, economic and social institutions and citizens; and the promotion and pursuit of public penal action as representative of the State.

43. The law determines the other objectives and functions of the Attorney-General's Office, as also the manner, scope and appropriate times of exercise of its powers for the above-mentioned purpose.

III. GENERAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other authorities having jurisdiction in matters concerning human rights

44. According to article 10 of the Constitution of the Republic, all State organs, their executives, their officials and their employees, act within the limits of their respective competences; they have an obligation to comply strictly with socialist legality and ensure that it is respected in the life of the whole of society.

45. Similarly, the defence of the rights and legitimate interests of citizens is a main task and a special obligation of the courts and the Office of the Attorney-General of the Republic. In particular, the Attorney-General's office, in its capacity as an organizational unit subordinated only to the National Assembly of People's Power and the Council of State, as laid down in article 127 of the Constitution, has primary responsibility for: controlling and safeguarding legality through surveillance to ensure strict compliance with the Constitution, the legislation and other legal provisions on the part of State agencies, economic and social institutions and citizens; and the promotion and pursuit of public penal action in its capacity of representative of the State.

46. In terms of their scope and content, all the activities of the Attorney-General's office are directed towards ensuring legality, with the aim of protecting legal order and, especially, the rights and freedoms of citizens.

47. Accordingly, on becoming aware, through a report made or complaint lodged by a citizen during pre-trial proceedings or through the mechanism of the prosecution inquiries that it may conduct under the law, of the existence of a violation of human rights, the Attorney-General's office, in accordance with the provisions of article 3 (c) of Law No. 4 of 1977 (Judicial System Organization Act), has the obligation to take action for the restoration of the legality infringed, without prejudice to any action that may be taken by the affected individual to demand, in accordance with the provisions of the law, the real and effective recognition of the right violated.

48. Legality in judicial process is guaranteed by the obligation laid upon State agencies and public institutions to implement and have implemented the judgements and other firm decisions of courts, adopted within the limits of their competence; the obligation laid upon citizens and private institutions to respect and carry out the judgements and other decisions of the courts, which applies both to those who are directly affected by the decisions and to

those who, while having no direct interest in their implementation, have the duty to facilitate it; the right accorded by the law to appeal against the unconditional sentences and decisions of the courts; the obligation laid upon the courts to pronounce such judgements or unconditional sentences and other judicial decisions as are appropriate, no exception or excuse whatsoever being admissible; and the requirement for the courts to implement effectively any judgements pronounced and to see to it that they are carried out by the bodies responsible for contributing to the process of execution, as also to carry out the actions provided for in the relevant procedural laws should the execution of their judgements be the responsibility of another State organ (Law No. 70 of 1990, art. 7).

B. Remedies available to an individual who claims that his rights have been violated; systems of compensation and rehabilitation for victims

49. Article 26 of the Constitution of the Republic states that anybody who suffers damages or injuries unjustly caused by a State official or employee in connection with the performance of his public functions has the right to claim and obtain appropriate compensation or indemnification as prescribed by law; by way of guarantee it is also laid down in article 62 that every citizen has the right to address complaints and petitions to the authorities and to be given attention or a reply.

50. Any violation of the inherent rights of the individual, as enshrined in the Constitution, which affects the property or honour of the victim entitles him to demand the immediate cessation of the violation or the elimination of its effects to the extent possible through retractation on the part of the offender and repair of the damage and injury caused (Law No. 59, Civil Code, art. 38). Similarly, anyone who unlawfully causes damage or injury to another must indemnify him for it (Civil Code, art. 82).

51. Further, article 116 of the Criminal Procedure Act provides that "anyone who witnesses the commission of a compulsorily indictable offence, or is certain for any other reason that it has been committed, has the obligation to bring it to the attention of a court, prosecutor, examining magistrate, or police unit or, failing that, the military unit closest to where he is". Such denunciations may be made in writing or by word of mouth, personally or through third parties.

52. With regard to indemnification, article 70.1 of the Penal Code provides that "the person criminally liable is also civilly liable for the damage and injury caused by the offence. The court trying the offence shall declare the civil responsibility and its extent, applying the relevant provisions of the civil legislation, and in addition shall directly discharge the obligation to restore the object, remedy the moral injury, etc. ...".

53. In Cuba there is a body responsible for ensuring effective discharge of civil liabilities in terms of repair of material damage and indemnification for injuries. To that end it exacts payment of amounts due and makes them over to the victims. If those liable do not pay what is due, distraint is laid on their salaries, wages or any other income, and may also be imposed on any kind of goods or rights except those excluded by the legislation on civil procedure.

54. Fair and adequate indemnification is also guaranteed by the fact that if anyone, having been declared in the sentence to be civilly liable for an offence, does not discharge that liability to the person concerned, distraint is imposed on his salary, wage or any other income in such amount as is provided by law. In addition, article 149 of the Criminal Procedure Act provides that should it be necessary, for the determination of competence or the assessment of the offence or its circumstances, to specify the value of the article which was the object of the offence, or the extent of the damage that was caused or may have been caused, the injured party shall be heard on the subject, without prejudice to the entitlement of the parties to advance or produce any other means of proof, and that of the court to give weight to this element in its sentence.

55. The court shall decide, of its own motion, upon the measures necessary to maintain the equality of the parties in the suit, obviate delays and concentrate into a single act such measures as may be taken jointly, and enforce fairness and honesty in the judicial debate. Likewise it must prevent and correct, where necessary, any conduct contrary to strict respect for these principles. Should there become apparent in the proceedings a situation of obvious defencelessness or inequality such as to cause irreparable damage not attributable to the party affected, and should no specific solution be indicated in this law, the court, of its own motion, and having heard the adverse party, may approve the necessary measures to restore equity, though without changing the time accorded for the debate (arts. 39 and 40 of the Civil, Administrative and Labour Procedure Act).

C. Protection of human rights in the Constitution of the Republic of Cuba: mechanism for derogations and circumstances thereof

56. The rights enshrined in the Universal Declaration of Human Rights are formulated in and protected by current legislation in Cuba. In particular, the Constitution of the Republic endorses each of those rights and specifies the essential guarantees of their exercise. Furthermore, all the rights and freedoms enunciated in the Constitution are duly elaborated in various legal provisions that make up our domestic substantive law.

57. The Constitution can be amended, wholly or partially, only by the National Assembly of People's Power, through a decision adopted in a roll-call vote by not less than two thirds of all its members. If the revision is total or relates to the composition and powers of the National Assembly or its Council of State, or to rights and duties enshrined in the Constitution, it also requires ratification by a favourable vote of the majority of citizens with electoral rights, in a referendum called for to that effect by the Assembly itself.

58. In regard to the possibility of modifying the exercise of these rights and the circumstances thereof, article 67 of the Fundamental Law itself provides that "in case of the occurrence or imminence of natural disasters or catastrophes or other circumstances which by their nature, scale or essence threaten domestic order, the safety of the country or the stability of the

State, the President of the Council of State may declare a state of emergency throughout the national territory or a part thereof, and while it remains in force decree the mobilization of the population".

59. The National Defence Act determines how the state of emergency is regulated, its effects and the manner of its termination. It also lays down that emergency situations constitute states of that nature which become established temporarily, throughout the national territory or in a part thereof.

60. The National Defence Council, composed of the President and the Vice-President of the Council of State, as its President and Vice-President respectively, together with five other members appointed by the Council of State on the proposal of its President, may regulate in a different way, adapted to the circumstances and to the territory in which the said situations prevail, the exercise of any rights and the performance of the fundamental duties laid down. Notwithstanding, the measures determined by the authorities so empowered by the National Defence Council during emergency situations cease to be applicable when the emergency is declared to have ended; should it be considered necessary that they continue in effect, they must be ratified by the National Assembly or the Council of State.

D. How human rights instruments are made part of the national legal system

61. International legal instruments in general, whether they concern human rights or any other matter, involve, once the country's authorities have decided upon adhesion to them, an internal legal process which ends with their approval by the Council of Ministers (art. 98 (ch) of the Constitution) and their ratification by the Council of State (art. (m) of the Constitution). On the completion of this constitutional process they are incorporated into the country's positive law and it becomes obligatory to observe and comply with them.

E. How human rights instruments can be invoked before the courts or the administrative authorities

62. As was pointed out when the Charter of the United Nations was adopted at the San Francisco Conference in 1945, guaranteeing the major rights and freedoms of human beings is an internal responsibility of States.

63. In Cuban legal practice the regulations contained in an international document to which the country is party become enforceable legal provisions, whether by virtue of their being incorporated into national legislation or simply of compliance with what is laid down in the international document concerned.

64. In line with the foregoing, article 20 of the Civil Code prescribes that "if an international agreement or treaty to which Cuba is party establishes rules different from those set out in the relevant articles of the preliminary provisions of the Code cited or are not contained in them, the rules contained in the said agreement or treaty shall be applied".

F. Institution or national machinery with responsibility for overseeing the implementation of human rights

65. As already stated in paragraph 45 above, the fundamental objectives of the Office of the Attorney-General of the Republic, in its capacity as an organ subordinated only to the National Assembly of People's Power and the Council of State, include, in accordance with article 127 of the Constitution: controlling and safeguarding legality through surveillance to ensure strict compliance with the Constitution, the legislation and other legal provisions on the part of State agencies, economic and social institutions and citizens; and the promotion and pursuit of public penal action in its capacity as representative of the State.

66. Furthermore, in accordance with article 106.3 of Law No. 4 (Judicial System Organization Act), the functions assigned to the Office of the Attorney-General of the Republic include:

> "In case of acts contrary to the law committed by State agencies, to take action through legal process with a view to the restoration of the legality infringed, without prejudice to such action as it may be fitting for the individual affected by such acts to take in order to demand, by the means and in the manner determined by the law, the real and effective recognition of the right violated. To exercise the right of public action in penal proceedings in accordance with the law."

67. In conformity with these objectives, in the sphere of penal process, article 109 of the Criminal Procedure Act provides that the Public Prosecutor, as guardian of legality, shall guarantee respect for the dignity of the citizen, who must on no account be subjected to unlawful restrictions of his rights.

68. In addition, the Office of the Attorney-General of the Republic carries out inspections to ensure that legal standards are complied with in prisons and pre-trial detention centres, that conditions are in conformity with the legislation and other legal provisions, and that the physical integrity of the inmates is respected.

69. To complement these activities, the organizational structure of the Office of the Attorney-General of the Republic comprises the Citizens' Rights Directorate, which specializes in processing and responding to complaints and protests lodged concerning alleged violations of legality.

IV. INFORMATION AND PUBLICITY

70. Information on Cuban legislation and other legal matters has been regularly circulated in the various press and governmental information media for the whole population.

71. Article 79 of Decree-Law 67, dated 19 April 1983, on "Organization of the Central Administration of the State", provides that the main duties and

functions of the Ministry of Justice include "producing and circulating the Official Gazette of the Republic", in which are published all the laws, decree-laws, decisions, international documents and other legal provisions approved by the competent organs of the Republic. The Ministry of Justice has also been publishing various periodicals such as the law review Divulgación Legislativa, containing legislative texts, legal articles and other related material.

72. Also in circulation in the country is the Revista Cubana de Derecho, published by the Cuban Jurists' Union and containing important information on legal matters.